

**Effective 5/9/2017**

## **Chapter 43**

### **Child Abuse Offender Registry**

#### **77-43-101 Title.**

- (1) This chapter is known as the "Child Abuse Offender Registry."
- (2) This chapter applies to all child abuse offenders in the custody of the Department of Corrections or on parole or probation on May 9, 2017, or who enter this state on or after May 9, 2017.

Enacted by Chapter 282, 2017 General Session

#### **77-43-102 Definitions.**

As used in this chapter:

- (1) "Business day" means a day on which state offices are open for regular business.
- (2) "Child abuse offender" means any person who:
  - (a) has been convicted in this state of a felony violation of:
    - (i) Subsection 76-5-109(2)(a) or (b), child abuse;
    - (ii) Section 76-5-308.5, human trafficking of a child; or
    - (iii) attempting, soliciting, or conspiring to commit any felony offense listed in Subsections (2)(a)(i) or (ii);
  - (b) has been convicted of any crime, or an attempt, solicitation, or conspiracy to commit a crime in another jurisdiction, including any state, federal, or military court, that is substantially equivalent to the offenses listed in Subsection (2)(a) and who is:
    - (i) a Utah resident; or
    - (ii) not a Utah resident, but who, in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;
  - (c)
    - (i) is required to register as a child abuse offender in any other jurisdiction of original conviction, who is required to register as a child abuse offender by any state, federal, or military court, or who would be required to register as a child abuse offender if residing in the jurisdiction of the conviction regardless of the date of the conviction or any previous registration requirements; and
    - (ii) in any 12-month period, is in this state for a total of 10 or more days, regardless of whether the offender intends to permanently reside in this state;
  - (d) is a nonresident regularly employed or working in this state, or who is a student in this state, and was convicted of one or more offenses listed in Subsection (2)(a), or any substantially equivalent offense in another jurisdiction, or who, as a result of the conviction, is required to register in the person's state of residence;
  - (e) is found not guilty by reason of insanity in this state or in any other jurisdiction of one or more offenses listed in Subsection (2)(a); or
  - (f) is adjudicated delinquent based on one or more offenses listed in Subsection (2)(a) and who has been committed to the division for secure confinement for that offense and remains in the division's custody 30 days before the person's 21st birthday.
- (3) "Correctional facility" means the same as that term is defined in Section 64-13-1.
- (4) "Department" means the Department of Corrections.
- (5) "Division" means the Division of Juvenile Justice Services.

- (6) "Employed" or "carries on a vocation" includes employment that is full time or part time, whether financially compensated, volunteered, or for the purpose of government or educational benefit.
- (7) "Indian Country" means:
  - (a) all land within the limits of any Indian reservation under the jurisdiction of the United States government, regardless of the issuance of any patent, and includes rights-of-way running through the reservation;
  - (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory, and whether or not within the limits of a state; and
  - (c) all Indian allotments, including the Indian allotments to which the Indian titles have not been extinguished, including rights-of-way running through the allotments.
- (8) "Jurisdiction" means any state, Indian Country, United States Territory, or any property under the jurisdiction of the United States Armed Forces, Canada, the United Kingdom, Australia, or New Zealand.
- (9) "Natural parent" means a minor's biological or adoptive parent, and includes the minor's noncustodial parent.
- (10) "Offender" means a child abuse offender as defined in Subsection (2).
- (11) "Online identifier" or "Internet identifier":
  - (a) means any electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication; and
  - (b) does not include date of birth, Social Security number, PIN number, or Internet passwords.
- (12) "Primary residence" means the location where the offender regularly resides, even if the offender intends to move to another location or return to another location at any future date.
- (13) "Register" means to comply with the requirements of this chapter and administrative rules of the department made under this chapter.
- (14) "Registration website" means the Child Abuse Offender Notification and Registration website described in Section 77-43-108 and the information on the website.
- (15) "Secondary residence" means any real property that the offender owns or has a financial interest in, or any location where, in any 12-month period, the offender stays overnight a total of 10 or more nights when not staying at the offender's primary residence.
- (16) "Traffic offense" does not include a violation of Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving.
- (17) "Vehicle" means any motor vehicle, aircraft, or watercraft subject to registration in any jurisdiction.

Enacted by Chapter 282, 2017 General Session

**77-43-103 Department duties.**

- (1) The department shall:
  - (a) develop and operate a system to collect, analyze, maintain, and disseminate information on offenders;
  - (b) make information listed in Subsection 77-43-108(4) available to the public; and
  - (c) share information provided by an offender under this chapter that may not be made available to the public under Subsection 77-43-108(4), but only:
    - (i) for the purposes under this chapter; or
    - (ii) in accordance with Section 63G-2-206.
- (2) Any law enforcement agency shall, in the manner prescribed by the department, inform the department of:

- (a) the receipt of a report or complaint of an offense listed in Subsection 77-43-102(2)(a), within three business days; and
- (b) the arrest of a person suspected of any of the offenses listed in Subsection 77-43-102(2)(a), within five business days.
- (3) Upon convicting and sentencing a person of any of the offenses listed in Subsection 77-43-102(2)(a), the convicting court shall within three business days forward a signed copy of the judgment and sentence to the Child Abuse Offender Registry office within the department.
- (4) The department shall:
  - (a) provide the following additional information when available:
    - (i) the crimes the offender has been convicted of or adjudicated delinquent for; and
    - (ii) any other relevant identifying information as determined by the department;
  - (b) maintain the Child Abuse Offender Notification and Registration website; and
  - (c) ensure that the registration information collected regarding an offender's employment at an educational institution is entered into the appropriate state records or data system.

Enacted by Chapter 282, 2017 General Session

**77-43-104 Registration of offenders -- Department and agency requirements.**

- (1) An offender in the custody of the department shall be registered by agents of the department upon:
  - (a) placement on probation;
  - (b) commitment to a secure correctional facility operated by or under contract to the department;
  - (c) release from confinement to parole status, termination or expiration of sentence, or escape;
  - (d) entrance to and release from any community-based residential program operated by or under contract to the department; or
  - (e) termination of probation or parole.
- (2) An offender who is not in the custody of the department and who is confined in a correctional facility not operated by or under contract to the department shall be registered with the department by the sheriff of the county in which the offender is confined, upon:
  - (a) commitment to the correctional facility; and
  - (b) release from confinement.
- (3) An offender in the custody of the division shall be registered with the department by the division prior to release from custody.
- (4) An offender committed to a state mental hospital shall be registered with the department by the hospital upon admission and upon discharge.
- (5)
  - (a)
    - (i) A municipal or county law enforcement agency shall register an offender who resides within the agency's jurisdiction and is not under the supervision of the Division of Adult Probation and Parole.
    - (ii) In order to conduct offender registration under this chapter, the agency shall ensure the agency staff responsible for registration:
      - (A) has received initial training by the department and has been certified as qualified and authorized to conduct registrations and enter offender registration information into the registry database; and
      - (B) certify annually with the department.
  - (b)

- (i) When the department receives offender registration information regarding a change of an offender's primary residence location, the department shall within five days electronically notify the law enforcement agencies that have jurisdiction over the area where:
    - (A) the residence that the offender is leaving is located; and
    - (B) the residence to which the offender is moving is located.
  - (ii) The department shall provide notification under this Subsection (5)(b) if the offender's change of address is between law enforcement agency jurisdictions, or is within one jurisdiction.
  - (c) The department shall make available to offenders required to register under this chapter the name of the agency, whether it is a local law enforcement agency or the department, that the offender should contact to register, the location for registering, and the requirements of registration.
- (6) An agency in the state that registers an offender on probation, an offender who has been released from confinement to parole status or termination, or an offender whose sentence has expired shall inform the offender of the duty to comply with:
- (a) the continuing registration requirements of this chapter during the period of registration required in Subsection 77-43-105(3), including:
    - (i) notification to the state agencies in the states where the registrant presently resides and plans to reside when moving across state lines;
    - (ii) verification of address at least every 60 days pursuant to a parole agreement for lifetime parolees; and
    - (iii) notification to the out-of-state agency where the offender is living, whether or not the offender is a resident of that state; and
  - (b) the identification card requirement under Section 53-3-806.5.
- (7) The department may make administrative rules necessary to implement this chapter, including:
- (a) training requirements for agency staff responsible for conducting offender registration;
  - (b) the method for dissemination of the information; and
  - (c) instructions to the public regarding the use of the information.
- (8) Any information regarding the identity or location of a victim shall be redacted by the department from information provided under Subsections 77-43-103(4) and 77-43-105(8).
- (9) This chapter does not create or impose any duty on any person to request or obtain information regarding any offender from the department.

Enacted by Chapter 282, 2017 General Session

**77-43-105 Registration of offenders -- Offender responsibilities.**

- (1) An offender convicted by any other jurisdiction is required to register under Subsection (3) and Subsection 77-43-102(2). The offender shall register with the department within 10 days of entering the state, regardless of the offender's length of stay.
- (2)
  - (a) An offender required to register under this chapter who is under supervision by the department shall register in person with Division of Adult Probation and Parole.
  - (b) An offender required to register under this chapter who is no longer under supervision by the department shall register in person with the police department or sheriff's office that has jurisdiction over the area where the offender resides.
- (3)
  - (a) Except as provided in Subsections (3)(b), (c), and (4), an offender shall, for the duration of the sentence and for 10 years after termination of sentence or custody of the division, register

every year during the month of the offender's date of birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (6).

- (b) Except as provided in Subsections (4) and (5), an offender who is convicted in another jurisdiction of an offense listed in Subsection 77-43-102(2)(a), a substantially similar offense, or any other offense that requires registration in the jurisdiction of conviction, shall:
  - (i) register for the time period, and in the frequency, required by the jurisdiction where the offender was convicted if that jurisdiction's registration period or registration frequency requirement for the offense that the offender was convicted of is greater than the 10 years from completion of the sentence registration period that is required under Subsection (2)(a), or is more frequent than every six months; or
  - (ii) register in accordance with the requirements of Subsection (2)(a), if the jurisdiction's registration period or frequency requirement for the offense that the offender was convicted of is less than the registration period required under Subsection (2)(a), or is less frequent than every six months.
- (c)
  - (i) An offender convicted as an adult of any first degree felony offense listed in Subsection 77-43-102(2)(a) shall, for the offender's lifetime, register every year during the month of the offender's birth, during the month that is the sixth month after the offender's birth month, and also within three business days of every change of the offender's primary residence, any secondary residences, place of employment, vehicle information, or educational information required to be submitted under Subsection (6).
  - (ii) This registration requirement is not subject to exemptions and may not be terminated or altered during the offender's lifetime.
- (d) For the purpose of establishing venue for a violation of this Subsection (3), the violation is considered to be committed:
  - (i) at the most recent registered primary residence of the offender or at the location of the offender, if the actual location of the offender at the time of the violation is not known; or
  - (ii) at the location of the offender at the time the offender is apprehended.
- (4) Notwithstanding Subsection (3), an offender who is confined in a secure facility or in a state mental hospital is not required to register during the period of confinement.
- (5) In the case of an offender adjudicated in another jurisdiction as a juvenile and required to register under this chapter, the offender shall register in the time period and in the frequency consistent with the requirements of this Subsection (5). However, if the jurisdiction of the offender's adjudication does not publish the offender's information on a public website, the department shall maintain, but not publish the offender's information on the Child Abuse Offender Registration website.
- (6) An offender shall provide the department or the registering entity with the following information:
  - (a) all names and aliases by which the offender is or has been known;
  - (b) the addresses of the offender's primary and secondary residences;
  - (c) a physical description, including the offender's date of birth, height, weight, eye and hair color;
  - (d) the make, model, color, year, plate number, and vehicle identification number of any vehicle or vehicles the offender owns or regularly drives;
  - (e) a current photograph of the offender;
  - (f) a set of fingerprints, if one has not already been provided;
  - (g) a DNA specimen, taken in accordance with Section 53-10-404, if one has not already been provided;

- (h) telephone numbers and any other designations used by the offender for routing or self-identification in telephonic communications from fixed locations or cellular telephones;
  - (i) Internet identifiers and the addresses the offender uses for routing or self-identification in Internet communications or postings;
  - (j) the name and Internet address of all websites on which the offender is registered using an online identifier, including all online identifiers used to access those websites;
  - (k) a copy of the offender's passport, if a passport has been issued to the offender;
  - (l) if the offender is an alien, all documents establishing the offender's immigration status;
  - (m) all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business, including any identifiers, such as numbers;
  - (n) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student, and any change of enrollment or employment status of the offender at any educational institution;
  - (o) the name, the telephone number, and the address of any place where the offender is employed or will be employed;
  - (p) the name, the telephone number, and the address of any place where the offender works as a volunteer or will work as a volunteer; and
  - (q) the offender's social security number.
- (7) Notwithstanding Section 42-1-1, an offender:
- (a) may not change the offender's name:
    - (i) while under the jurisdiction of the department; and
    - (ii) until the registration requirements of this statute have expired; and
  - (b) may not change the offender's name at any time, if registration is for life under Subsection (3)(c).
- (8) Notwithstanding Subsections (6)(i) and (j) and 77-43-103(1)(c), an offender is not required to provide the department with:
- (a) the offender's online identifier and password used exclusively for the offender's employment on equipment provided by an employer and used to access the employer's private network; or
  - (b) online identifiers for the offender's financial accounts, including any bank, retirement, or investment accounts.

Enacted by Chapter 282, 2017 General Session

#### **77-43-106 Penalties.**

- (1) An offender who knowingly fails to register under this chapter or provides false or incomplete information is guilty of a third degree felony and shall be sentenced to serve a term of incarceration for not less than 90 days and also at least one year of probation.
- (2) Neither the court nor the Board of Pardons and Parole may release a person who violates this chapter from serving the term required under Subsection (1). This Subsection (2) supersedes any other provision of the law contrary to this chapter.
- (3) The offender shall register for an additional year for every year in which the offender does not comply with the registration requirements of this chapter.

Enacted by Chapter 282, 2017 General Session

#### **77-43-107 Classification of information.**

Notwithstanding Title 63G, Chapter 2, Government Records Access and Management Act, information under Subsection 77-43-103(4) that is collected and released under Subsection 77-43-108(4) is public information, unless otherwise restricted under Subsection 77-43-103(1).

Enacted by Chapter 282, 2017 General Session

**77-43-108 Child Abuse Offender Registry -- Department to maintain.**

- (1) The department shall maintain a Child Abuse Offender Notification and Registration website on the Internet, which shall contain a disclaimer informing the public:
  - (a) the information contained on the site is obtained from offenders and the department does not guarantee its accuracy or completeness;
  - (b) members of the public are not allowed to use the information to harass or threaten offenders or members of their families; and
  - (c) harassment, stalking, or threats against offenders or their families are prohibited and doing so may violate Utah criminal laws.
- (2) The Child Abuse Offender Notification and Registration website shall be:
  - (a) indexed by both the surname of the offender and by postal codes; and
  - (b) linked with the Sex and Kidnap Offender Registry as created in Chapter 41.
- (3) The department shall construct the Child Abuse Notification and Registration website so that users, before accessing registry information, must indicate that they have read the disclaimer, understand it, and agree to comply with its terms.
- (4) Except as provided in Subsection (6), the Child Abuse Offender Notification and Registration website shall include the following registry information:
  - (a) all names and aliases by which the offender is or has been known, but not including any online or Internet identifiers;
  - (b) the addresses of the offender's primary, secondary, and temporary residences;
  - (c) a physical description, including the offender's date of birth, height, weight, and eye and hair color;
  - (d) the make, model, color, year, and plate number of any vehicle or vehicles the offender owns or regularly drives;
  - (e) a current photograph of the offender;
  - (f) a list of all professional licenses that authorize the offender to engage in an occupation or carry out a trade or business;
  - (g) each educational institution in Utah at which the offender is employed, carries on a vocation, or is a student;
  - (h) a list of places where the offender works as a volunteer; and
  - (i) the crimes listed in Subsection 77-43-102(2) that the offender has been convicted of or for which the offender has been adjudicated delinquent in juvenile court.
- (5) The department, its personnel, and any individual or entity acting at the request or upon the direction of the department are immune from civil liability for damages for good faith compliance with this chapter and will be presumed to have acted in good faith by reporting information.
- (6) The department shall redact information that, if disclosed, could reasonably identify a victim.

Enacted by Chapter 282, 2017 General Session

**77-43-109 Fees.**

- (1) Each offender required to register under Section 77-43-105 shall, in the month of the offender's birth:

- (a) pay to the department an annual fee of \$100 each year the offender is subject to the registration requirements of this chapter; and
  - (b) pay to the registering agency, if it is an agency other than the Department of Corrections, an annual fee of not more than \$25, which may be assessed by that agency for providing registration.
- (2) Notwithstanding Subsection (1), an offender who is confined in a secure facility or in a state mental hospital is not required to pay the annual fee.
- (3) The department shall deposit fees collected in accordance with this chapter in the General Fund as a dedicated credit, to be used by the department for maintaining the offender registry under this chapter and monitoring offender registration compliance, including the costs of:
- (a) data entry;
  - (b) processing registration packets;
  - (c) updating registry information; and
  - (d) ensuring offender compliance with registration requirements under this chapter.

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